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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,718	02/13/2001	Steven P. Hamilton	15879-13	1023

7590 04/24/2003

Squire, Sanders & Dempsey, L.L.P.
Attn: Sung I. Oh, Esq.
801 So. Figueroa St., 14th Floor
Los Angeles, CA 90017-5554

EXAMINER

BRATLIE, STEVEN A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

782718

Applicant(s)

HAMILTON

Examiner

BRATLIE

Group Art Unit

3652

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-53 is/are pending in the application.
- Of the above claim(s) 2, 3, 4-17, 19-21, 23-44, 53 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 4, 4, 18, 22, 45, 48-52 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3652

1. The finality of the office action of 12-18-02 is withdrawn in view of the new ground of rejection.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1, 4, 18, 22, 45, 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wineteer in view of Kurilich, Jr., Somers et al and French Patent #2043880.

Wineteer discloses a substantially similar lifting dolly, note Fig. 6. Wineteer is not adapted to transports motorcycles, and does not have a pivoted wheel lift. In view of the disclosures in the patents to Kurilich, Jr. and Somers et al it would have been obvious to a mechanic with ordinary skill in the art at the time the invention was made to provide Wineteer with adjustable chocks to ^{carry a}~~carries a~~ motorcycle. French Patent #2043880 discloses a pivoted wheel lift #9, #10, #12. The motivation to provide a pivoted wheel lift is the known substitution of equivalents.

Art Unit: 3652

5. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wineteer in view of Kurilich, Jr., Somers et al, French Patent #2043880 as applied above, and further in view of Scott and O'Rarden.

The claim recites loading into a truck. Scott and O'Rarden disclose loading a dolly into a truck. It is noted the applicant did not discuss the merits of this claim in the appeal brief filed 2-18-03.

6. Claims 1, 4, 18, 22, 45, 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matovich in view of Bell et al and British Patent # 2,326,632.

Matovich discloses substantially similar structure in Figs. 5, 6 and 7. Note cradle arms #B, chocks #82, #84 and dolly A. Attention is invited to col. 5 lines 20 – col. 6. line 5. Note especially col. 5 lines 62-65. It is apparent that the structure can be adjusted to lift a motorcycle. It is noted that applicant's open terminology does not preclude additional cradle arms, etc. Matovich lacks pivoted lift wheels. Bell et al discloses a dolly with plural wheels, while British Patent # 2,326,632 discloses pivoted wheels in Figs. 2 and 4. It would have been obvious to a mechanic with ordinary skill in the art at the time the invention was made to substitute pivoted lift wheels. The motivation is the known use of equivalents.

7. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matovich in view of Bell et al, British Patent # 2,326,632 as applied above, and further in view of Scott and O'Rarden.

The claim recites loading into a truck. Scott and O'Rarden disclose loading a dolly into a truck. It is noted that applicant did not discuss the merits of this claim in the appeal brief filed 2-18-03

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Bratlie whose telephone number is (703) 308-2669. The examiner can normally be reached on Monday through Thursday from 6:30 to 5:00. Friday is the examiner's day off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be direct to the receptionist whose telephone number is (703) 306-4177.

Bratlie/kn
April 22, 2003



**STEVEN A. BRATLIE
PRIMARY EXAMINER**